

Item 1
From Fred Trump's Castle

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STATE OF NEW JERSEY
CASINO CONTROL COMMISSION

PUBLIC MEETING NO. 91-20

Wednesday, June 26, 1991
Atlantic City Commission Office
Tennessee & Boardwalk
Atlantic City, NJ 08401
10:45 a.m.

B E F O R E:

- STEVEN P. PERSKIE, CHAIRMAN
- VALERIE H. ARMSTRONG, VICE CHAIR
- W. DAVID WATERS, COMMISSIONER
- FRANK J. DODD, COMMISSIONER
- JAMES R. HURLEY, COMMISSIONER

PRESENT FOR THE CASINO CONTROL COMMISSION:

- BARBARA A. GALLO, PRINCIPAL RESEARCH ANALYST
- KAREN G. BIACHE, ADMINISTRATIVE ANALYST
- DARYL W. NANCE, ADMINISTRATIVE ANALYST
- THOMAS FLYNN, PUBLIC INFORMATION OFFICER

ON BEHALF OF THE COMMISSION STAFF:

- JOHN R. ZIMMERMAN, ASSISTANT GENERAL COUNSEL
- ANTONIA Z. COWAN, ASSISTANT COUNSEL
- DAVID C. MISSIMER, COUNSEL I
- E. DENNIS KELL, COUNSEL I
- STEVEN M. INGIS, COUNSEL I
- LEONARD J. DIGIACOMO, COUNSEL II
- O. LISA DABREU, COUNSEL II
- RUTH S. MORGENROTH, COUNSEL III
- MARY S. LAMANTIA, COUNSEL IV
- LON E. MAMOLEN, COUNSEL IV
- SETH H. BRILIANT, COUNSEL IV
- KELLY L. CAMPBELL, ASSISTANT COUNSEL
- BERNADETTE FRIGEN, PARALEGAL TECHNICIAN
- SHARON HAND, SUPERVISING APPLICATIONS ANALYST
- KAREN KINDLE, PRINCIPAL APPLICATIONS ANALYST

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1 The record will reflect the motion
2 carries unanimously.

3 (All Commissioners present voted in
4 favor of the motion)

5 CHAIRMAN PERSKIE: Are there any
6 other questions counsel?

7 All right. Thank you very much.

8 MS. GALLO: Item No. 16, "State
9 versus Trump's Castle Associates."

10 Mr. DiGiacomo.

11 MR. DIGIACOMO: Chairman and
12 Commissioners, good afternoon.

13 CHAIRMAN PERSKIE: Wait until we have
14 everybody here. I couldn't tell what was going on.

15 Good afternoon, Mr. DiGiacomo. What
16 do you have for us today.

17 MR. DIGIACOMO: This item was last
18 before the Commission a week ago. The parties have
19 recently submitted a supplemental stipulation of facts
20 for the Commission's consideration. Counsel are here
21 to present the matter to the Commission at this time,
22 Mr. Auriemma on behalf of the Division and Mr. Fusco
23 on behalf of Trump's Castle Associates.

24 CHAIRMAN PERSKIE: Let me indicate
25 that we have some dialogue I think that we want to

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1 engage in with counsel which we will do. It is then
2 the Commission's intention so that nobody is
3 surprised, we will take a brief recess after whatever
4 dialogue we are going to now have and we will take a
5 brief recess to convene and discuss the matter and
6 then hopefully resolve it this afternoon right after
7 that recess.

8 When we last met in connection with
9 this matter the Commission essentially addressed a
10 couple of concerns, one was that the parties address
11 themselves to a supplement to the stipulation that was
12 originally filed with a view to identifying the who or
13 when and how of the details of the matter, and we have
14 received in response to that a supplemental
15 stipulation dated today. We also addressed in that
16 context a request that the Division identify today for
17 us the basis for its parent determination and not to
18 seek to proceed in any fashion with respect to any of
19 the individuals who might have participated in any
20 fashion in connection with the matter. Those were the
21 questions that I think we raised at the last hearing.
22 I will invite each of you to respond as you see fit to
23 whatever you think is appropriate.

24 Mr. Fusco.

25 MR. FUSCO: I realize that the

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1 Commission just received the supplemental stipulation,
2 but--

3 CHAIRMAN PERSKIE: We have had the
4 opportunity to review it.

5 MR. FUSCO: It speaks for itself
6 and--

7 CHAIRMAN PERSKIE: Well, it does and
8 it doesn't. Sort of does, uses an interesting
9 phrase. It says TCA executive management. We don't
10 have anybody by that name on our files.

11 MR. FUSCO: Mr. Chairman, if I may,
12 being aware obviously of the dialogue and remarks that
13 occurred at the last time that the Commission was
14 considering this on the 20th, to state the obvious,
15 this is a settlement agreement and stipulation of
16 facts. The transaction occurred. There was dialogue
17 with the Division. The Division took a position that
18 there was a violation. As a result of that certain
19 things occurred. Mr. Fred Trump filed certain forms
20 and that was processed through and Trump's Castle
21 agreed to enter into this settlement agreement.

22 Had we not reached the settlement
23 agreement we would have contested the issue. There
24 are two issues in my view. One issue is the casino
25 cage alleged violation and the other is a financial

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1 source alleged violation. The casino cage violation
2 comes down to a question of whether or not under the
3 existing statute, regulations and internal controls it
4 is permissible for any casino but for Trump's Castle
5 specifically to engage in a front money transaction
6 with a representative of the depositor. It is clear
7 and I believe even your staff would advise you of the
8 fact that the statute, regulations and the internal
9 controls don't address it. That is in our view a
10 litigable issue. I am not presumptuous enough to say
11 what the Commission would decide. It is clearly
12 litigable. It is not addressed.

13 The violation, to the extent that
14 exists is that there. It is not provided for in the
15 internal control submission and therefore we have
16 agreed with the Division in this stipulation to agree
17 that that is a violation. I submit that if we
18 contested this we would not agree and I think a
19 reasonable question exists there.

20 As far as the financial source
21 violation, this transaction occurred in the casino
22 cage in the context of the regulations which governed
23 that. So in the view of the licensee that is proper.
24 The procedures that are proper were followed there.

25 The Division took the position that,

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1 the reasonable position, that this is also a financial
2 source transaction. That's the way they are going to
3 color it and if that is so the financial source must
4 be prequalified under the rules which govern the
5 financial source. There are no terms to this front
6 money deposit and removal of chips other than those
7 which attend that transaction under the law of the
8 State of New Jersey. There are no terms to it. There
9 was for a period of time a condition imposed by the
10 Commission that those chips would not be redeemed
11 until a point in time when Mr. Trump was qualified.
12 He has been qualified and that condition no longer
13 exists. So we submit that and the position of the
14 licensee would be but for this settlement that there
15 is not a violation, now, I'm not so presumptuous
16 enough, of financial source concerns. The Commission
17 is the arbitrator of that, not the parties. The
18 parties though evaluated their position. I only speak
19 for one party, Trump's Castle Associates, and our view
20 is that on the basis of that evaluation of what the
21 legal circumstances are, we entered into this
22 agreement.

23 The agreement is everything that it
24 says it is which is a complaint against the licensee
25 and no other persons. We have stipulated the fact

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1 that my client is in a position to be comfortable to
2 stipulate and that's the judgment that it made. It
3 made it respectfully. That's the judgment. Here's
4 the stipulation.

5 I will answer any question, but
6 that's where we are.

7 CHAIRMAN PERSKIE: Let me hear from
8 the Division first and then we will see what the
9 Commission wants to do.

10 MR. AURIEMMA: Good afternoon. The
11 supplemental stipulation you have today was an attempt
12 to provide the Commission with additional information
13 in an amendment to attempt to address some of the
14 concerns specifically raised by Commissioner Waters
15 and Commissioner Armstrong last week. Obviously it is
16 not a unilateral document. It is not the Division
17 which can unilaterally give in the posture of this
18 particular case at this point in time unilaterally
19 present facts. We are bound by some borders within a
20 particular stipulation. There were discussions over
21 the past week and this stipulation was the result. It
22 is what it is and that is, as Mr. Fusco said, as far
23 as the Castle was willing to stipulate, and would not
24 go any further and there were discussions as to other
25 items, but this is what is before the Commission at

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1 this point in time and it is the best that I on behalf
2 of the Division could present to you at this point
3 given the posture of this case. So I hope you would
4 consider it within that particular context.

5 With respect to the question of the
6 Division and why we chose again to only prosecute, if
7 you will, the licensee Trump's Castle as opposed to
8 any particular individuals, I am going to refer to
9 what I said last week and supplement it in this way.

10 First, at the time this whole
11 transaction was reviewed back in January and February
12 of early this year by the Division, by the director, a
13 determination was made to proceed with a complaint.
14 The decision was made at that particular point in time
15 to only charge the licensee Trump's Castle. That's
16 not to say that there could not necessarily have been
17 individuals charged. I am neither saying that they
18 could be charged or not charged. The decision was
19 made at that point in time to only charge those
20 individuals--excuse me, to only charge the licensee.
21 We have reviewed that particular decision since and we
22 will remain bound by it. We believe that it was
23 appropriate in this particular case to only charge the
24 licensee Trump's Castle. We do that based upon our
25 prosecutorial discretion and based upon the fact that

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1 in this particular case we saw an opportunity to
2 resolve the matter relatively quickly, with a
3 stipulation of facts, with a complaint, with a
4 settlement agreement and focused on the real issue
5 which we believe to be whether or not Fred Trump was
6 to be a financial source and was qualified as a
7 financial source or focus to that particular
8 investigation. That is the basis for the Division's
9 decision.

10 CHAIRMAN PERSKIE: All right, thank
11 you, sir.

12 Does anybody on the Commission have
13 any questions of either attorney?

14 COMMISSIONER WATERS: I just want to
15 go back not to your point, Mr. Fusco, on page seven of
16 your stipulation.

17 CHAIRMAN PERSKIE: This is the new
18 stipulation?

19 COMMISSIONER WATERS: The old one,
20 the original one. Would you compare what's--what
21 appears there at I guess item A with your earlier
22 discussion as to whether you agree there was or was
23 not a violation.

24 MR. FUSCO: We stipulate in our
25 stipulation that the financial source provisions

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1 referred to here were violated. That we have
2 stipulated to.

3 COMMISSIONER WATERS: Am I wrong that
4 I heard you saying something different earlier?

5 MR. FUSCO: No. I said that as part
6 of the agreement overall that's reached here, meaning
7 that the licensee was charged and the facts are set
8 forth as they are, in the context of that the licensee
9 agreed to not contest whether or not the financial
10 source provisions are applicable and were violated not
11 to contest it. I only said before when I addressed
12 the Commission that had we not stipulated and
13 litigated, our position is that they are not violated
14 and that would be our position.

15 COMMISSIONER WATERS: Oh, if you had
16 proceeded to contest it, you are not attempting to
17 deny there were violations though?

18 MR. FUSCO: The stipulation accepts
19 the fact. I am not at all in anyway and I don't mean
20 to be read that way at all.

21 COMMISSIONER WATERS: Okay. It
22 wasn't clear to me.

23 VICE CHAIR ARMSTRONG: Mr. Fusco, I
24 have a couple questions. The original stipulation
25 notes the fact that both transactions were videotaped,

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1 the transactions were videotaped.

2 MR. FUSCO: Yes, ma'am.

3 VICE CHAIR ARMSTRONG: Am I correct
4 in assuming that the Commission's inspection staff was
5 not notified that the transactions were going to take
6 place and they were going to be videotaped?

7 CHAIRMAN PERSKIE: You mean before
8 they took place?

9 VICE CHAIR ARMSTRONG: Right. Before
10 the tape rolled, was our inspection staff notified?

11 MR. FUSCO: I don't know the answer
12 to the question. I only know that both transactions
13 were videotaped from the point of the fill being
14 bought out to the table to ultimately the chips being
15 distributed to Mr. Schneider, but I do not know. The
16 answer is I don't know the answer to that question.

17 VICE CHAIR ARMSTRONG: Do you know
18 Mr. Auriemma?

19 MR. AURIEMMA: I may have once known
20 but I do not know as I sit here today.

21 VICE CHAIR ARMSTRONG: I assume that
22 if you don't know that then, Mr. Auriemma, presumably
23 the Division wasn't notified that it was about to take
24 place?

25 MR. AURIEMMA: No, the Division was

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1 not.

2 MR. AURIEMMA: So if I read the
3 second stipulation or the supplemental stipulation
4 correctly, the first time the Division or Commission
5 were notified about this was after it happened on
6 December 19, 1990, anyone from the Commission or
7 Division was notified about it?

8 MR. AURIEMMA: I believe that's
9 accurate, yes.

10 VICE CHAIR ARMSTRONG: Okay.

11 CHAIRMAN PERSKIE: Anybody have any
12 other questions of either counsel?

13 Okay, we will recess. We will
14 reconvene probably hopefully by about 3:00 and finish
15 the matter

16 (At which time a break was taken from
17 2:43 p.m. to 3:12 p.m.)

18 CHAIRMAN PERSKIE: We will reconvene
19 and I note the presence of the entire Commission.

20 This again is the matter of State
21 versus Trump's Castle Associates. The Commission
22 pursuant to its authority has considered the matter in
23 closed session over the course of the last half hour.
24 It can safely and fairly be said that we have
25 different perspectives and points of view with respect

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1 to the subject. I will express my own point of view
2 and then make a motion and I am sure there will be
3 some comments with respect to the motion in one
4 fashion or another.

5 This is, in my view, actually I find
6 myself thinking in terms that I used to with some
7 regularity down the street. There is one aggravating
8 factor that is very important to me and there are a
9 couple of mitigating factors that I view in terms of
10 how to respond to this proposed stipulation and
11 settlement. The aggravating factor relates to the
12 nature of the violation and I, for one, have no
13 difficulty with describing this with or without an
14 agreement to do so as a violation of the financial
15 source regulation. There is no question in my mind
16 but that there is no other possible interpretation
17 that could be placed on these facts with the acts here
18 committed with the intent that they were other than to
19 have what in effect is a financial source arrangement,
20 and it clearly was not structured as such pursuant to
21 statutory procedure.

22 While there are some mitigating
23 factors, which I will mention in a moment with respect
24 to that, this is among the single most important of
25 the statutory protections that have been built. The

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1 advancing of a financial interest from someone who is
2 not qualified to do so is intricate, fundamental part
3 of our regulatory process. This, for example, is to
4 be distinguished from what I would describe as a
5 generic problem at a table with a chip fill slip not
6 being correctly filled out or a credit authorization
7 not being properly signed or something of that nature
8 that I would call important but of some secondary
9 focus. That's the aggravating factor from my point of
10 view.

11 I am satisfied that there are two
12 factors that are present here that need to be
13 evaluated. First, I am satisfied that there was no
14 intention whatsoever to hide these facts or to have it
15 done in secret. I think the Division has concluded
16 that as well. I am satisfied there is no record that
17 we can--could use to conclude that advance permission
18 or information was given or sought, but they taped it
19 and free and full disclosure was immediately and
20 promptly and fully made and I am--and that's an
21 important factor to me. The fact that there was never
22 any attempt to hide this or to make a secret of it or
23 to cover it up.

24 And, secondly, while it is certainly
25 clear in my mind that there was a financial source

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1 problem, it was unique in the sense that it was first
2 one incident that took place admittedly over a day
3 and-a-half or so, but one incident, one transaction
4 with one individual who while not licensed as a
5 financial source which creates the violation was
6 nevertheless in close--known to the authorities, known
7 to the licensee, and someone who when the time came
8 for us to do it we had no difficulty at all on the
9 Division's affirmative recommendation concluding he
10 was qualified as a financial source. This is not
11 exactly the same thing as going and finding the Joe
12 Fusco Loan Company someplace and not knowing who they
13 were or the David Arrajj loan company different from
14 the Steven Perskie Loan Company.

15 In any event obviously there is a
16 balance there. As far as I'm concerned with a couple
17 of important asterisks that balance process leads me
18 to be able to accept the essential outline and
19 structure of this proposed settlement even though if I
20 were doing it all on my own I might do it
21 differently.

22 There are a couple, however,
23 important asterisks and my motion will be to accept
24 the proposed settlement as modified given that it is
25 before us as a proposed stipulation and settlement and

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1 given that I propose to modify it, the parties will
2 have the opportunity to accept or reject the
3 settlement as modified except that I will direct that
4 that be done before the close of business today and
5 the Commission staff be notified as to whether it is
6 accepted or not. Failing acceptance of the modified
7 settlement if it is approved by the Commission the
8 matter will be referred to a hearing on all of the
9 issues raised in the matter and that hearing will be
10 held as I will assign it before one of the
11 Commissioners as a hearing officer.

12 I would modify--I would therefore
13 move to accept the proposed stipulation and settlement
14 with the following modifications:

15 First, as to the Commission, the
16 settlement of the complaint against Trump's Castle
17 Associates will be considered as without prejudice to
18 the authority of the Division to file if it chooses to
19 do so any complaints against any individuals that
20 might have been involved in the transaction.

21 Second, along the balancing lines
22 that I have previously outlined given my emphasis and
23 priority on the seriousness of the regulatory
24 violation, I will modify the proposed fine to be in
25 the amount of \$65,000.

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1 With those two modifications I would
2 move to accept the settlement as offered.

3 COMMISSIONER HURLEY: Second.

4 CHAIRMAN PERSKIE: Comment or
5 discussion?

6 Who wants to go first?

7 Vice Chair having seniority.

8 VICE CHAIR ARMSTRONG: Mr. Chairman,
9 I will support the motion, but there are some things
10 that I just personally feel I have to say here.

11 Number one, I would agree that the
12 fine as stipulated of \$30,000 is not enough but I can
13 certainly live with the recommendation of the \$65,000.

14 I guess though based on what we have
15 been told here not only in the stipulation, the
16 amended stipulation, but what we have been told on the
17 record, and based on what we haven't been told that I
18 almost look at Castle as an entity as almost an
19 innocent bystander to this whole situation. This was
20 something which happened, we know happened that was
21 deliberate, people did it, people planned it, they
22 carried it out and we still don't know who those
23 people are, and I want to make something clear, I am
24 not, and I certainly hope that if the motion passes
25 and if it is ultimately accepted by the parties that

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1 consideration is given to finding out, to really
2 getting to the truth of the matter and finding out
3 what happened here and who participated and I want to
4 make clear here, I am not supporting that concept
5 because we should be out on a witch hunt, but you
6 know, we put people through the paces here and the
7 regulatory process day in and day out, week in and
8 week out. There are 50,000 employees in this industry
9 that we hold to the highest standards and the way this
10 entire matter was handled as far as the settlement is
11 I think an affront to those 50,000 employees. It is
12 an affront to the service worker who is caught in the
13 employee locker room smoking a joint and who gets his
14 license revoked or suspended, to the cage cashier who
15 steals five dollars. Those people are accountable to
16 us and they are accountable to us in detail to tell us
17 what happened and to acknowledge it. Here we have
18 violations, purported violations committed by
19 individuals and we still don't know who they are and
20 they are violations of a very, very serious nature and
21 I guess the fact that there was not an attempt to hide
22 this transaction, the fact that it was videotaped to
23 me is not a mitigating factor. I guess I look at the
24 deliberateness of the violations here as being an
25 extremely aggravating factor and I am not happy really

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1 with how this whole situation has been handled and I
2 am monumentally disappointed that the Division of
3 Gaming Enforcement has not pursued this matter to the
4 fullest extent that it could be pursued.

5 That's basically all I have to say at
6 this point.

7 CHAIRMAN PERSKIE: Commissioner
8 Waters.

9 COMMISSIONER WATERS: Yes, Mr.
10 Chairman. I guess this brings to the peak one of my
11 concerns that I have had for a number of years and I
12 voiced it internally in conversations with the other
13 Commissioners and members of staff. I guess I have
14 always been uncomfortable with the fact that my
15 reputation and welfare so many times depends on the
16 actions of people over whom I have no control and in
17 this instance the Division of Gaming Enforcement. Up
18 to this point in time though I have learned to live
19 with that and I have seen no indication of any
20 instance whereas--where I was as uncomfortable as I am
21 in this one. I think this is unfortunate that I reach
22 that point. What we have been told by the Division in
23 this instance is that they know the individuals who
24 were involved in this affair and they choose not to
25 file a complaint.

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1 Commissioner Armstrong covered in her
2 remarks, I have sat here week after week and at times
3 have ended up finding some clerk teller or some other
4 person who violated a regulation, was not an integrity
5 matter as such, but violated a regulation and stands
6 responsible for it. In this instance we know that the
7 people involved are not just the average run of the
8 mill employees in the house. I guess it's probably
9 this appearance of a double standard that is being
10 demonstrated by the Division of Gaming Enforcement
11 that if it's just an average employee a complaint is
12 filed very quickly, comes in here and handled and if
13 the person is found to have violated a regulation they
14 have to stand accountable for that action and are
15 fined, suspended and whatnot. This instance where we
16 are climbing higher into the corporate hierarchy it's
17 pretty evident, and I don't know why, there is a
18 reluctance on the part of the Division to follow that
19 same standard in dealing with those people occupying
20 those positions.

21 When I came on this Commission I took
22 an oath to do those things necessary to uphold the
23 principles of the Casino Control Act. I think it's a
24 sad commentary that the Division of Gaming Enforcement
25 doesn't share that view and for an unknown reason

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1 doesn't do what it would normally do in these
2 circumstances.

3 As I indicated in closed session, I
4 am going to support the motion that's been made since
5 it applies only to the corporate entities in the
6 penalty that's been assessed, but I guess it's greater
7 than disappointment to me. I think it's an outrage
8 that the Division of Gaming Enforcement would take
9 this position and fail to carry out what I understand
10 to be its responsibility to enforce the provisions of
11 the Casino Control Act.

12 Thank you.

13 CHAIRMAN PERSKIE: Commissioner
14 Dodd.

15 COMMISSIONER DODD: In 13 years of
16 casino gaming in Atlantic City this transaction is
17 probably the most unique singular action that has ever
18 taken place out of tens of billions of dollars that
19 have been moved around Atlantic City one way or
20 another, and I think the statute is silent on this
21 particular transaction. We bump into a loophole here
22 and there and I believe this possibly is one of them.
23 The intent, as has been said by my colleagues, wasn't
24 an attempt at subterfuge to get around a regulatory
25 system, it was meant to avoid the new financial

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1 structure within The Trump Organization of who got
2 what first, if you put in money then you had to get
3 behind the first bondholder and all of those. Again,
4 we are asked week in, week out to judge each
5 transaction, each infraction on its own.

6 Now, I don't think there is anyone in
7 this room that doesn't know how this came down. Fred
8 Trump didn't wake up in the middle of the night and
9 say I feel like buying three and-a-half million
10 dollars worth of chips. Now, if that was part of the
11 stipulation which are difficult to get on a good day
12 and having faith in the Division of Gaming, in
13 extracting the best possible deal I have to go with
14 that because other times I have been here for over two
15 years now and we look at these case by case. I still
16 can't figure out how we got to Jack Gallaway and the
17 Trop deal when day in/day out we go through, routinely
18 go through violations that clearly go right to the
19 CEOs of each organization. So it's whatever mood we
20 are in. I'm not sure what motivates us on this. This
21 is a stipulation, very difficult to come by. If they
22 don't accept it, fine, then it should go right to a
23 hearing. This is the best we can come up with right
24 now.

25 CHAIRMAN PERSKIE: Okay, again, the

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1 motion is to accept the stipulation, proposed
2 settlement as modified on the record here.

3 On the motion all in favor will so
4 indicate.

5 The record will reflect the motion
6 carries unanimously.

7 (All Commissioners present voted in
8 favor of the motion)

9 CHAIRMAN PERSKIE: The parties have
10 until the close of business today to notify Mr.
11 DiGiacomo that they accept the stipulation as modified
12 or that they don't, failing which if they don't accept
13 it or if we haven't heard in either case the matter
14 will be forthwith remanded for a hearing on the
15 underlying complaint for a hearing to be held before
16 the Commission.

17 I think that's all on that matter.
18 Thank you very much.

19 MS. GALLO: It is now time for the
20 public participation portion of the meeting.

21 CHAIRMAN PERSKIE: Anybody from the
22 public desire to be heard in any matter?

23 Come forward. Please state your
24 name.

25 MR. MORSE: My name is David Morse,